

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 96-212-W - ORDER NO. 96-754
OCTOBER 31, 1996

IN RE: Application of Upstate Heater Utilities,) ORDER
 Inc. for Approval of a Transfer of its) DENYING
 Water Utility to South Carolina Water) REQUEST
 and Sewer, L.L.C.)

This matter comes before the Public Service Commission of South Carolina (the Commission) on the request of Intervenor Chester G. Kapp (Kapp or the Intervenor) to hold the hearing in this matter in abeyance, and submit the purchase of Upstate Heater Utilities, Inc. (Upstate or the Company) to alternate bidders. South Carolina Water and Sewer Company, L.L.C. (SCWS), the purchaser in this case, has submitted its opposition to the request.

In his original request, Intervenor Kapp states that he sees no need for a public hearing in order to substantiate that SCWS is a qualified buyer and operator for Upstate's systems. He believes that SCWS is both. However, Kapp states that he does not believe SCWS will reduce his water rates. Therefore, Kapp takes the position that the purpose of the upcoming hearing should be to obtain and examine the evidence in support of an alternative purchase of Upstate's water systems that would result in a rate reduction to Upstate's customers. Kapp then notes the

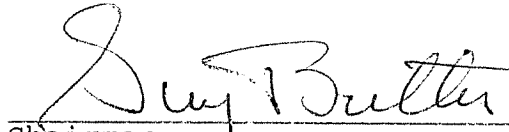
intervention of six (6) water companies in this case, and states his belief that they should be given the opportunity to present proposals to the Commission for the purchase of the Upstate system.

SCWS comments that the Commission's responsibilities in this proceeding are very clear under South Carolina law. In essence, according to SCWS, the Commission is to ensure that the acquiring company is technologically, managerially, and financially able to provide the services for which a certificate has been applied. The Commission must determine that the Company is capable of carrying out the duties assumed by the acquisition of Upstate's facilities. SCWS further states that it would be most inappropriate for the Commission to require SCWS and Upstate to take a contract which has been negotiated at arms length, and shop it among other possible purchasers. Upstate has had an opportunity to attempt to negotiate the best deal possible, and has elected the course of business conduct presently before the Commission. We believe that we are also under an obligation to examine the fairness of the contract.

We hold that the only matters before the Commission are the fairness of the contract at issue and the fitness of SCWS to be awarded a Certificate of Public Convenience and Necessity to operate the system, and therefore deny Mr. Kapp's Request. Should the Commission fail to find the contract fair and/or fail to find SCWS fit to hold a Certificate, Mr. Kapp could certainly renew his request.

This Order shall remain in full force and effect until
further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)